

OPINION
59-28

September 10, 1959 (OPINION)

ALCOHOLIC BEVERAGES

RE: Minors - Possession By

In your letter of September second you ask whether, under Section 1 of Chapter 100, 159 Session Laws, which section in part reads:

It shall be unlawful for any person under the age of twenty-one years to purchase or attempt to purchase or have in his possession in this state any intoxicating liquor* * *,

you can charge all of the minors in a automobile in which intoxicating liquor is found in possession of same, or "must we merely charge the one minor in whose possession we find the intoxicating liquor and free all the remaining minors in the automobile."

The question of possession being one of fact, a categorical yes or no is impossible. Legal possession of an article can be in a group as well as one individual, and actual physical custody or manucaption by one member of the group does not preclude the possibility of the existence of legal possession in other members of the group. If any of the other members of the group have a voice, so to speak, in the care, control and management of the goods, then they, as well as the party in conscious physical possession, might be found to be in legal possession of the goods.

LESLIE R. BURGUM

Attorney General